
SUBSTITUTE HOUSE BILL 1447

State of Washington

64th Legislature

2015 Regular Session

By House State Government (originally sponsored by Representatives Holy, S. Hunt, and Appleton; by request of Department of Enterprise Services)

READ FIRST TIME 02/09/15.

1 AN ACT Relating to the debarment authority of the director of
2 enterprise services; and amending RCW 39.26.200.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 39.26.200 and 2013 2nd sp.s. c 34 s 1 are each
5 amended to read as follows:

6 (1)(a) The director shall provide notice to the contractor of the
7 director's intent to either fine or debar with the specific reason
8 for either the fine or debarment. The department must establish the
9 debarment (~~(process)~~)and fining processes by rule.

10 (b) After reasonable notice to the contractor and reasonable
11 opportunity for that contractor to be heard, the director has the
12 authority to debar a contractor for cause from consideration for
13 award of contracts. The debarment must be for a period of not more
14 than three years.

15 (2) The director may either fine or debar a contractor based on a
16 finding of one or more of the following causes:

17 (a) Conviction for commission of a criminal offense as an
18 incident to obtaining or attempting to obtain a public or private
19 contract or subcontract, or in the performance of such contract or
20 subcontract;

1 (b) Conviction or a final determination in a civil action under
2 state or federal statutes of fraud, embezzlement, theft, forgery,
3 bribery, falsification or destruction of records, receiving stolen
4 property, violation of the federal false claims act, 31 U.S.C. Sec.
5 3729 et seq., or the state medicaid fraud false claims act, chapter
6 74.66 RCW, or any other offense indicating a lack of business
7 integrity or business honesty that currently, seriously, and directly
8 affects responsibility as a state contractor;

9 (c) Conviction under state or federal antitrust statutes arising
10 out of the submission of bids or proposals;

11 (d) Two or more violations within the previous five years of the
12 federal labor relations act as determined by the national labor
13 relations board or court of competent jurisdiction;

14 (e) Violation of contract provisions, as set forth in this
15 subsection, of a character that is regarded by the director to be so
16 serious as to justify debarment action:

17 (i) Deliberate failure without good cause to perform in
18 accordance with the specifications or within the time limit provided
19 in the contract; or

20 (ii) A recent record of failure to perform or of unsatisfactory
21 performance in accordance with the terms of one or more contracts,
22 however the failure to perform or unsatisfactory performance caused
23 by acts beyond the control of the contractor may not be considered to
24 be a basis for debarment;

25 (f) Violation of ethical standards set forth in RCW 39.26.020;
26 and

27 (g) Any other cause the director determines to be so serious and
28 compelling as to affect responsibility as a state contractor,
29 including debarment by another governmental entity for any cause
30 listed in regulations.

31 (3) The director must issue a written decision to debar. The
32 decision must:

33 (a) State the reasons for the action taken; and

34 (b) Inform the debarred contractor of the contractor's rights to
35 judicial or administrative review.

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